

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDRIC WILKES,

Plaintiff,

v.

CASE NO. 05-CV-72898-DT
HONORABLE GERALD E. ROSEN

PATRICIA CARUSO, ROBERT MULVANEY,
JIM ARMSTRONG, BLAINE LAFLER,
ERICK BALCARCEL, PATRICK MERRY,
and FRED FUNSTON,

Defendants.

ORDER OF DISMISSAL

This is a *pro se* prisoner civil rights action under 42 U.S.C. § 1983. Plaintiff Fredric Wilkes initiated this action on July 25, 2005, when he submitted his civil rights complaint and a check to the Clerk of Court. On the same day, the Clerk of Court returned Plaintiff's check with a notice explaining that the check was written for an incorrect amount. The notice directed Plaintiff to correct the error no later than August 8, 2005. Plaintiff did not return a check in the correct amount, and on October 17, 2005, United States Magistrate Judge R. Steven Whalen ordered Plaintiff to prepay the filing fee of \$250.00 or to apply for leave to proceed without prepayment of fees and costs. Magistrate Judge Whalen warned Plaintiff that failure to comply with his order could result in the dismissal of this action and assessment of the filing fee. To date, Plaintiff has not complied with Magistrate Judge Whalen's order.

The United States Court of Appeals for the Sixth Circuit explained in *McGore v. Wigglesworth*, 114 F.3d 601 (6th Cir. 1997), that

[p]auper status for inmates, as we previously knew it, no longer exists. While incarcerated, all prisoners must now pay the required filing fees and costs. 28 U.S.C. §§ 1915(b)(1)-(2), 1915(f)(2). When an inmate seeks pauper status, the only issue is whether the inmate pays the entire fee at the initiation of the proceeding or over a period of time under an installment plan. Prisoners are no longer entitled to a waiver of fees and costs. *See In re Tyler*, 110 F.3d 528, 529-30 (8th Cir.1997).

When a prisoner files a complaint in the district court, the inmate must either pay the entire filing fee, or request leave to proceed in forma pauperis “without prepayment of fees or security therefor” under 28 U.S.C. § 1915(a)(1).

Id. at 604. Because Plaintiff has not prepaid the full filing fee of \$250.00, nor applied for leave to proceed without prepayment of the filing fee, this action is DISMISSED without prejudice.

s/Gerald E. Rosen
Gerald E. Rosen
United States District Judge

Dated: December 13, 2005

I hereby certify that a copy of the foregoing document was served upon counsel of record on December 13, 2005, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager